DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/30/2007 have been fully considered but they are not persuasive.

Claim 1, Applicant argues that Brunheroto fails to teach that such web server 106 broadcasts a data file that is to be broadcast by TV broadcast station 112 as part of a predetermined broadcast schedule, as in Claim 1. Rather than broadcast at least one data file prior to the scheduled broadcast by a broadcast server of a broadcast service system as part of a predetermined broadcast schedule, as in Claim 1, the web server referred to by the Examiner does not broadcast content but in fact is used to track audience viewing of the interactive content provided to the broadcast station for broadcast via broadcast network 113 which is shown as block 305 in FIG. 3, with tracking server 307 corresponding to web server 106 as shown in FIG. 1.

In response to Applicant's argument, it is noted that reference Brunheroto is relied upon to teach the limitation "a broadcast server of a broadcast service system that is separate from the service provider system." Seidman is relied upon to teach the limitation "broadcasting meta-data to one or more client system including descriptions of a plurality of available for broadcast data files from a broadcast server of a service provider system and a plurality of upcoming data files to be broadcast to the one or more client system by a broadcast server of a broadcast service system" as shown in claim 1. Further Hite, discussed below is relied upon to teach ""at least one upcoming

data file for selective storage within the one ore more client systems according to respective content rating tables of the one or more client systems prior to broadcast of at least one upcoming data files by the broadcast service system as part of a predetermined broadcast schedule."

Applicant further argues that that pre-stored commercials, as taught by Hite, would refer to commercials that are not to be broadcast at a set time according to, for example, a thirty second commercial spot during which Hite teaches that a number of commercials might be broadcast simultaneously over different separate channels. In fact, we submit that such pre-stored commercials are used for situations where time synchronization of several channels of alternate commercials is not possible without causing conflicts with normally scheduled pre-emptable commercials. Hence, although such commercial is broadcast prior to a commercial spot, we submit that such pre-stored commercials are not subsequently broadcast to a user as such additional broadcast of the pre-stored commercials would be a waste of broadcast bandwidth.

In response to Applicant's argument that the commercial are not subsequently broadcast to a user as additional broadcast, reading the claim in the broadest sense Hite teaches the limitation "at least one upcoming data file for selective storage within the one or more client systems according to respective content rating tables of the one or more client systems prior to broadcast of at least one upcoming data files by the broadcast service system as part of the predetermined broadcast schedule" as claimed in claim 1. In a situation where it may not be possible to time synchronize the channels the targeted ads can be substituted during live events. Pre-stored commercials will be

broadcast to the user in the event that the time synchronization is not possible. These pre-stored commercials become part of the predetermined broadcast schedule because the commercial targeting data contains information about channels having pre-emptable channels. Therefore, prior to broadcast the instructions are stored pertaining to replacement of a commercial, which is interpreted as being part of the predetermined broadcast schedule (col. 11, lines 40-57).

Claims 25-26, 34, 36 are also continually rejected for reasons stated above.

Claims 6-8, 28-29, 35 are also continually rejected for reasons stated above.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 4, 34, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view of Hite et al. (US 6002393).

Claim 1, Seidman discloses a method, comprising:

- broadcasting meta-data to one or more client systems (Col. 7, lines 34-40, Col. 8, lines 16-35), including descriptions of a plurality of available for broadcast data files from a broadcast server of a

service provider system and a plurality of upcoming data files to be broadcast to the one or more client system by a broadcast server of a broadcast service system (Col. 5, lines 13-32; Col. 7, lines 39- 55, data describing programming data, Col. 9, lines 20-40, plurality of program segments for viewing);

- rating the plurality of available for broadcast data files and the plurality of upcoming data files (Col. 6, lines 25-52; Col. 7, lines 63-67; Col. 8, lines 1-11, user ratings and profile of different shows); and
- broadcasting, by the broadcast server of the service provider system according to the rating a plurality of data files to enable a user to navigate the concurrently transmitted customized digital stream (Col. 3, lines 55-67; Col. 8, lines 20-50; Col. 9, lines 45-67; Col. 10, lines 1-6).

Seidman does not clearly disclose "a broadcast server of a broadcast service system that is separate from the service provider system" and "at least one of the plurality of upcoming data files for selective storage within the one or more client systems according to respective content rating tables of the one or more client systems prior to the scheduled broadcast of at least one of upcoming data files by the broadcast server of the broadcast service system as part of a predetermined broadcast schedule".

Brunheroto discloses an architecture of an interactive TV audience estimation and program rating in which a global tracking unit 107 is linked to a Web server 106 (Service provider system) is separate from the Interactive TV content creation 111 and the TV broadcast station 112 (a broadcast server of a broadcast service system), as shown in Fig. 1.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman with Brunheroto's interactive TV tracking architecture so that global tracking unit 107 able to determine how many people are enjoying the enhanced TV mode and showing interest in some products, even

purchasing these products on the TV screen on a real-time basis based on the hyperlinked activity which is concurrent with viewer interests on the video presentation (see page 3, §0027).

Hite discloses "at least one of the plurality of upcoming data files for selective storage within the one or more client systems according to respective content rating tables of the one or more client systems prior to the scheduled broadcast of at least one of upcoming data files by the broadcast server of the broadcast service system as part of a predetermined broadcast schedule" (Col. 12, lines 13-28). *These pre-stored commercials become part of the predetermined broadcast schedule because the commercial targeting data contains information about channels having pre-emptable channels. Therefore, prior to broadcast,t the instructions are stored pertaining to replacement of a commercial, which is interpreted as being part of the predetermined broadcast schedule (col. 11, lines 40-57).*

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto to record at least one TV program, i.e., targeting commercials, on the user receiver, as taught by Brown so the targeted commercials are available at the moment needed without concern for the timing on the other channels (see Col. 12, lines 25-28).

Regarding Claim 4, Seidman shows that a variety of hyperlinks are sent to the user then the user selects the hyperlink, effectively sending the meta-data (col. 7 lines

28-38, col. 8 lines 19-45, selection of hyperlink sends user relevant metadata, hyperlink is effectively scheduling the display of data).

Claim 34 is analyzed with respect to claims 1 and 4 in which Seidman further shows

- a service provider broadcast server (col. 4 lines 30-40, head end with media content), and
- one or more client systems coupled to the service provider broadcast server (col. 4 lines 30-57, user STB connected to head end),
- wherein meta-data is broadcast to the one or more client systems, the meta-data including descriptions of a plurality of available for broadcast data files from the service provider broadcast server and a plurality of data files to be broadcast to one or more client system by a broadcast server of a broadcast service system that is separate from the service provider system (col. 7 lines 34-40, col. 8 lines 16-35, embedded hyperlink data, col. 5 lines 13-22, col. 7 lines 39-55, data describing programming data, col. 9 lines 20-40, plurality of program segments for viewing),
- wherein the one or more client systems rate, one or more of the plurality of data files described by the meta-data (col. 6 lines 25-52, col. 7 lines 63-67, col. 8 lines 1-1 1, user ratings and profile of different shows) the content rating table generated responsive to data files previously accessed (col. 5 lines 53-63, storing viewer's previous selections, col. 6 lines 2-8),
- wherein the one or more client systems transmit, to the service provider broadcast server, the ratings of the plurality of data files (col. 6 lines 40-67, sending user history and preferences to head end).

Claim 36, Seidman (Col. 5, lines 13-22; Col. 6, lines 65-67; Col. 9, lines 45- 67; Col. 10, lines 1-6) in view of Brunheroto and Hite (Col. 12, lines 13-28) discloses wherein the client system selectively receive data files from the selected subset of the plurality of available for broadcast and upcoming data files according to a content rating

table associated with each respective one of the one or more of client systems.

4. Claims 6-8, 28-29, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view of Ellis (US 2004/0226042) and further in view of Hite et al. (US 6002393).

Claim 6, Seidman shows a method, comprising:

- receiving meta-data, the meta-data including descriptions of a plurality of available for broadcast data files from broadcast server of a service provider system and a plurality of upcoming data files to be broadcast by a broadcast server of a broadcast service provider system service system (Col. 5, lines 13-32; Col. 7, lines 39-55, data describing programming data, Col. 9, lines 20-40, plurality of program segments for viewing);
- rating, in response to a content rating table, at least one of the plurality of available for broadcast and upcoming data files described by the meta-data, the content rating table generated responsive to a user (Col. 6, lines 25-52; Col. 7, lines 63-67; Col. 8, lines 1-11, user ratings and profile of different shows);
- receiving an upcoming data file broadcast by the service provider system prior to the scheduled broadcast of the upcoming data files by the broadcast service system (Col. 3, lines 55-67; Col. 8, lines 20-50; Col. 9, lines 45-67; Col. 10, lines 1-6); and

Seidman does not clearly disclose "a broadcast server of a broadcast service system that is separate from the service provider system", "Storing, based on the content rating table, one of the upcoming data file, once broadcast by the broadcast server of the broadcast service system and the received upcoming data files broadcast

by the broadcast server of the service provider system", and “receiving an upcoming data file as part of a predetermined broadcast schedule"

Brunheroto discloses an architecture of an interactive TV audience estimation and program rating in which a global tracking unit 107 is linked to a Web server 106 (Service provider system) is separate from the Interactive TV content creation 111 and the TV broadcast station 112 (a broadcast server of a broadcast service system), as shown in Fig. 1.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman with Brunheroto's interactive TV tracking architecture so that global tracking unit 107 able to determine how many people are enjoying the enhanced TV mode and showing interest in some products, even purchasing these products on the TV screen on a real-time basis based on the hyperlinked activity which is concurrent with viewer interests on the video presentation (see page 3, §0027).

Ellis discloses "storing, based on the content rating table (ratings), one of the received available for broadcast data file (updated broadcasts) broadcast by the broadcast server of the broadcast service system (22) and the received upcoming data files (current programs in video servers) broadcast by the broadcast server of the service provider system (26) " (figs. 2 and 4; paragraphs [0041]-[0045]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto to update the

servers with future programs as taught by Ellis to add recently released programs (paragraph [0043]).

Hite discloses "receiving an upcoming data file as part of a predetermined broadcast schedule" (Col. 12, lines 13-28). *These pre-stored commercials become part of the predetermined broadcast schedule because the commercial targeting data contains information about channels having pre-emptable channels. Therefore, prior to broadcast,t the instructions are stored pertaining to replacement of a commercial, which is interpreted as being part of the predetermined broadcast schedule (col. 11, lines 40-57).*

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto and Ellis to record at least one TV program, i.e., targeting commercials, on the user receiver, as taught by Brown so the targeted commercials are available at the moment needed without concern for the timing on the other channels (see Col. 12, lines 25-28).

Claim 7, Seidman (col. 6, lines 40-67, sending user history and preferences to head end) in view of Brunheroto (Fig. 1 and Fig. 3) and Ellis shows transmitting the user ratings to the service provider.

Claim 8, Seidman (Col. 5, lines 13-22; Col. 6, lines 65-67; Col. 9, lines 45-67; Col. 10, lines 1-6) in view of Brunheroto (Fig. 1 and 2) and Ellis discloses broadcasting a service provider broadcast schedule of the subset of the plurality of available data files

prior to broadcasting the subset of the plurality of available for broadcast data files to enable storage thereof by the one or more client systems.
Seidman in view of Brunheroto (Fig. 1 and 2) and Ellis further shows that a variety of hyperlinks are sent to the user, then the user selects the hyperlink, effectively sending the meta-data (Seidman col. 7 lines 28-38, col. 8 lines 19-45, selection of hyperlink sends user relevant metadata, hyperlink is effectively scheduling the display of data). Seidman further shows a (program menu" and additional data pertaining to broadcast times (col. 5 lines 13-22, col. 6 lines 65-67).

Claim 28, a machine-readable medium having instruction stored thereon, which when executed by a processor is analyzed with respect to method claim 6.

Claim 29, Seidman (col. 6, lines 40-67, sending user history and preferences to head end) in view of Brunheroto (Fig. 1 and Fig. 3) and Ellis further discloses transmit the ratings of the at least one of the plurality of available for broadcast and upcoming data files to the service provider system.

Claim 35, Ellis further discloses the client system selectively store data file broadcast (updated broadcasts) by the broadcast service system (22) based on the content rating table (ratings), and the receiving upcoming data files (video servers) broadcast by the service provider system (26) (figs. 2 and 4; paragraphs [0041]-[0045]).

5. Claims 11 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view of Ellis (US 2004/0226042) and further in view of Hite (US 6002393).

Claim 11, Seidman (col. 9 lines 45-67, storing overlapping segments. Although not specifically stated it is nonetheless inherent that the STB uses memory, or a digital disk to store this data) in view of Brunheroto and Hite (Fig. 5, el. 551; Col. 11, lines 40-Col.12, lines 28) further shows storing data files in memory for the user's eventual selection.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention to have provided storage features as taught by Hite Seidman in view of Brunheroto to store targeted commercials so they are available at the moment needed without concern for timing on other channels (see column 12, lines 25-28).

Claim 33, Seidman (col. 9 lines 45-67, storing overlapping segments. Although not specifically stated it is nonetheless inherent that the STB uses memory, or a digital disk to store this data) in view of Brunheroto and Hite (Fig. 5, el. 551; Col. 11, lines 40-Col.12, lines 28) further disclose place each stored data file in a common repository irrespective of a content provider of the data file, such that a user can access a single location for selecting stored content data files.

6. Claim 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view of Hite et al. (US 6002393), and further in view of Brown (US 6611842).

Claim 2, Seidman (Col. 6, lines 40-67) in view of Brunheroto and Hite further shows

- receiving rating of the plurality of available for broadcast data files and the plurality of upcoming data files from the one or more client systems;
- Seidman (Col. 9, lines 20-45, 57-67; Col 10, lines 1-20, overlapping segments) further shows determining overlapping data files as data files from the selected data files to be broadcast by the broadcast service system; and
- Seidman (Col. 9, lines 10-55, displaying the program segment most relative to user interest and suppressing additional segments) further shows eliminating, from the selected data files, the overlapping data files to form a Subset of the plurality of available for broadcast data files to be broadcast to the one or more client systems by the service provider.

Seidman in view of Brunheroto and Hite does not show selecting data files from the 1st and 2nd plurality of data files, which have higher ratings, based on the received ratings.

Brown (Fig. 4-7; Col. 5, lines 20-Co1.11, lines 61) shows selecting data files from the 1st and 2nd plurality of data files which have higher ratings based on the received ratings.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman with the ability to choose segments

based on higher rating, as taught by Brown, so that user able to receive the most relevant/interest program.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view of Hite et al. (US 6002393), and further in view of Brown (US 6611842) and further in view of Ten Kate et al. (US 6601237).

Claim 3, Seidman (Col. 5, lines 13-22; Col. 6, lines 65-67; Col. 9, lines 45-67; Col. 10, lines 1-6) in view of Brown (Col. 12, lines 25-35) discloses

- broadcasting a service provider broadcast schedule of the subset of the plurality of available data files prior to broadcasting the subset of the plurality of available for broadcast data files to enable storage thereof by the one or more client systems;

Seidman in view of Brunheroto, Hite and Brown does not clearly disclose "broadcasting a broadcast schedule for the overlapping data files prior to broadcast by the broadcast service system".

Ten Kate shows broadcasting numerous amounts of schedule data pertaining to the program segments and overlapping segments (Col. 1, lines 22-36; Col. 2, lines 5-20; Col. 4, lines 50-67), program schedule data describing parameters of broadcast segments).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto, Hite and Brown with the ability to broadcast numerous amounts of schedule data, as taught by Ten

Kate, so that user would be provided with the most relevant data pertaining to a program and allow the system to compare different entries.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view of Hite et al. (US 6002393), and further in view of Ballou Jr. et al. (2002/0112235).

Claim 5, Seidman in view of Brunheroto and Hite fails to show receiving compensation for a stored data file and dividing compensation between the service provider and broadcast service system based on the portion provided.

Ballou shows receiving compensation for a stored data file (page 4 section 0038, receiving ID to charge credit account) and dividing compensation between the content provider and distributor (page 6 section 0063-0064, dividing compensation between distributor and content provider).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto and Hite with the ability to charge per viewing and divide compensation, as taught in Ballou, so that the multiple providers would receive maximum compensation and the appropriate compensation would go to each.

9. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view

of Hite et al. (US 6002393), and further in view of Ali (2002/0199194).

Claim 27, Seidman in view of Brunheroto and Hite shows user ratings and preferences and does not clearly and specifically state that all of the users' rating are combined to form an overall ratings list.

Ali Shows combining multiple users' ratings to form an overall ratings list (page 3 section 0027, list of rated items are aggregated with the rated items from many other users into a single list).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto and Hite with the ability to aggregate multiple users' ratings, as shown in Ali, so that suggestions could be made to the user of recommended shows.

10. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view of Ellis (US 2004/0226042), and further in view of Barton et al (6,490,722).

Regarding Claim 30, Although Seidman shows that segments are stored and it is inherent new segments can be stored (col. 9, lines 47-Co1.10, lines 15) in view of Brunheroto and Hite (Fig. 5), the combination of Seidman in view of Brunheroto and Ellis fails to specifically state the ability to remove data files stored on a client system

once viewed by a user, and replace deleted data files with additional data files broadcast by the service provider system and the broadcast service system.

Barton shows the ability to remove data files stored on a client system once viewed by a user, and replace deleted data files with additional data files broadcast by the service provider system and the broadcast service system (col. 18.lines 64- 67, col. 19 lines 1-7, deleting previously viewed segments and replacing with new segments).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto and Ellis with the ability to erase older segments and store new segments, as taught in Barton, so that the user would be supplied with a continuous stream of viewing material.

11. Claims 9-10, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman et al. (US 6298482) in view of Brunheroto et al. (US 2002/0087969) and further in view of Ellis (US 2004/0226042), and further in view of Ten Kate et al. (US 6601237), and further in view of Ballou Jr. et al. (2002/0112235).

Regarding Claim 9, Seidman (col. 9 lines 45-67, storing segments and user selecting appropriate segment) in view of Brunheroto and Hite shows receiving a selection for a stored data file.

Seidman in view of Brunheroto and Ellis fails to show determining the service provider.

Ten Kate shows the ability to determine information about content provider (col. 4 lines 35-67, SDT listing parameters of service for broadcast stream).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto and Ellis with the ability to determine the service provider, as in Ten Kate, so the system would know the source of the stream.

Seidman in view of Brunheroto, Ellis and Ten Kate fails to show billing the user a predetermined amount for selection of the stored data based on content provider information.

Ballou shows billing the user a predetermined amount for selection of the stored data based on content provider information (page 4 section 0038, receiving m to charge credit account, page 6 sections 0063-0065, billing according to multiple factors).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto, Ellis and Ten Kate with the ability to charge per viewing, as taught by Ballou, so that the multiple providers would receive maximum compensation.

Regarding Claim 10, Seidman in view of Brunheroto and Ellis fails to show determining the service provider.

Ten Kate shows the ability to determine information about content provider (col. 4 lines 35-67, SDT listing parameters of service for broadcast stream).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto and Ellis with the ability to determine the service provider, as in Ten Kate, so the system would know the source of the stream.

Seidman in view of Brunheroto, Ellis and Ten Kate fails to show receiving compensation for a stored data file and dividing compensation between the service provider and broadcast service system based on the portion provided.

Ballou shows receiving compensation for a stored data file (page 4 section 0038, receiving ID to charge credit account) and dividing compensation between the content provider and distributor (page 6 section 0063-0064, dividing compensation between distributor and content provider).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman in view of Brunheroto, Ellis and Ten Kate with the ability to charge per viewing and divide compensation, as taught in Ballou, so that the multiple providers would receive maximum compensation and the appropriate compensation would go to each.

Claim 31, see analysis of claim 9.

Claim 32, see analysis of claim 10.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mushfikh Alam whose telephone number is (571) 270-1710. The examiner can normally be reached on Mon-Fri: 8:30-18:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA
6/12/2008

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2623